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NECESSITY OF ENDING THE ECONOMIC, COMMERCIAL AND FINANCIAL EMBARGO IMPOSED BY THE UNITED STATES OF AMERICA AGAINST CUBA

Letter dated 10 October 1997 from the Chargé d'affaires a.i. of the Permanent Mission of Cuba to the United Nations addressed to the Secretary-General

I have the honour to attach a report prepared by my Government for the information meeting convened by the Organisation for Economic Cooperation and Development (OECD) for non-member States on the development of the Multilateral Investment Agreement.

Unfortunately, the Cuban Government's request to attend this meeting was denied, and Cuba was therefore unable to present its concerns and views on the possible implications of the current negotiations on this Agreement; these negotiations are progressing rapidly, and little is known about them outside OECD itself.

The negotiations on the Multilateral Investment Agreement are of particular interest to Cuba in view of the intention of the Government of the United States of America to use it, in the context of its blockade against my country, to prevent the flow of future investments to Cuba by manipulating the legitimacy of the Cuban nationalizations of the 1960s. These nationalizations, as can be seen in the attached document, were carried out in full conformity with the norms of international law.

I should be grateful if you would have the text of this letter and its annex circulated as a document of the General Assembly under agenda item 30.

(Signed) Pedro NUÑEZ MOSQUERA
Ambassador
Deputy Permanent Representative

ANNEX

Report prepared by the Government of Cuba for the information meeting convened by the Organisation for Economic Cooperation and Development for non-member States on the development of the Multilateral Investment Agreement

I. INTRODUCTION

1. In the last few months, the Administration of the United States of America has been negotiating with the European Union, seeking to include new regulations in the Multilateral Investment Agreement currently being prepared by the Organisation for Economic Cooperation and Development (OECD). Within the context of those negotiations, some of the measures being considered may affect Cuba because of the interpretation that United States negotiators are trying to give to the nationalization of United States property undertaken in the late 1950s and early 1960s. One of the objectives of this document is to prevent the distortion of the historical process and the conditions under which such nationalization took place. A secondary objective is to warn the rest of the world about the possible implications of the aforementioned scheme.

2. What is at stake with the Helms-Burton Act goes well beyond the bilateral conflict between Cuba and the United States; this Act shows how this powerful country views the reordering of international relations with its own allies, the developing countries and the multilateral institutions. By creating confusion and resorting to deceit, this country is concocting a plot against Cuba which could be used against other nations in the future.

II. BACKGROUND

3. After six months of futile warnings that the Helms-Burton Act should be repealed, on 3 October 1996 the European Union asked the World Trade Organization (WTO) to appoint an expert panel to examine and adopt decisions on the infringements of the regulations of that organization resulting from the Helms-Burton Act. Canada, Mexico, Japan, Malaysia and Thailand joined the European Union as third parties to the request.

4. The United States Administration threatened to cite national security reasons in order to impose the extraterritorial measures contained in that Act, which would seriously and irresponsibly undermine WTO in its functions of organizing international trade and the world economy.

5. On 11 April of this year, the United States and the European Union reached an "understanding", and it was reported that the United States Administration had undertaken to continue suspending the lawsuits under Title III of the Helms-Burton Act and negotiate with the United States Congress the possibility of amending the Act to waive Title IV. In addition, commitments were made to work towards an agreement concerning the Iran and Libya Sanctions Act.

6. The European Union, pursuing the common objective of not weakening WTO, temporarily suspended the proceedings before the WTO panel.

7. Based on this "understanding", the negotiation process relating to the Helms-Burton Act was referred from WTO to OECD, the organization which has been preparing a Multilateral Investment Agreement since 1995.

8. Two years ago, the OECD Ministerial Meeting adopted the following guideline when it set up the Negotiation Group which would draft the Multilateral Investment Agreement:

> "The Multilateral Investment Agreement should provide a wide multilateral structure for international investments, with high standards for the liberalization of investment regimes and investment protection, and containing effective procedures for the settlement of lawsuits".

9. In its two years of work, the Negotiation Group has taken up the issue of nationalization of foreign property only in terms of exceptional cases which could reoccur.

10. At no stage in the preparation of the Agreement was any reference made to previous nationalization. That is recorded in the OECD information note of March 1997 concerning the development of the Agreement:

> "Rapid progress has been made in drafting the provisions of the Agreement on investment protection. This can be attributed to the wide experience acquired by OECD countries in negotiating bilateral investment protection treaties. The provisions of the Agreement are largely based on the principles enshrined in these agreements."

11. Explicitly, the same note explained how the issue of nationalization would be dealt with:

> "(ii) Expropriation
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> Expropriation, or any other measure having similar effect, whether directly or indirectly, would be permitted only if it is in the public interest, on a non-discriminatory basis, against payment of prompt, adequate and effective compensation, and in accordance with due process of law".

12. In a surprising move, the United States Administration is trying to transform its position, going from the defendant's seat it occupied at WTO to setting forth new measures on international law within the framework of OECD, by means of which it is attempting to define in the Agreement as "illegal and against international law the nationalization of property undertaken" since the end of the 1950s. One of the goals of this scheme would be to deem illegal the nationalization of United States property undertaken by Cuba. In practice, it intends to internationalize Titles III and IV of the Helms-Burton Act, under the umbrella of a multilateral treaty adopted by OECD. Another goal would be to apply these measures to other nations, at the convenience of the United States Administration and Congress.

13. After the "understanding" in April, the United States managed, in its negotiations with the European Union, to isolate the other 13 member countries of OECD.

14. It is obvious that in a partially secret environment and with compartmentalization of information at the political levels of the OECD member countries, United States negotiators will try to take advantage of those conditions to achieve their objectives. In the United States itself, some are requesting information about the decisions made in the negotiations because there have been vast information gaps in this respect.

15. The United States is seeking to rearrange an international agreement for the sole purpose of serving its own foreign policy. The United States is actually taking advantage of its long-standing economic war against Cuba to use it as its test laboratory for future action with the rest of the world.

16. The United States has violated all rules by enacting the Helms-Burton Act, putting itself above the recognized norms of international law. But it refuses to be held accountable for such action. It is dangerous to allow it not only to break rules with impunity but to impose its power once again, taking concessions away from other nations. This will pose a threat to the future: it is just one more step in the accumulation of unilateral actions taken by Washington, D.C., lately, such as self-defining a reduction in its financial obligations to the United Nations; pre-defining the reforms to be undertaken by that institution; and setting itself up as the supreme attorney which "certifies" the good or bad behaviour of other countries in the international struggle against drug trafficking.

III. THE DANGERS AND CONTRADICTIONS RESULTING FROM THE SCHEME CONCOCTED BY THE UNITED STATES

17. In the past four years, the United States has enacted 61 executive laws and decisions applying unilateral trade sanctions against 35 nations, which account for 40 per cent of the world's population. The inconsistency of United States policy goes to such extremes that the President's Export Council issued a report advising him to restrict the use of unilateral sanctions, eliminating extraterritorial sanctions and secondary boycotts. The report uses the Helms-Burton and the D'Amato-Kennedy Acts, and the resulting complications in the international and trade fields, to exemplify this policy.

18. It is interesting to note that the Executive Director of the President's Export Council is Under-Secretary of State Stuart Eizenstat, who on the one hand advises restricting the use of unilateral and extraterritorial sanctions and, on the other, spearheads the task force set up to internationalize the Helms-Burton Act. Alan Larson, United States Assistant Under-Secretary of State and Vice-Chairman of the Negotiation Group in charge of the Agreement since its inception, is the second in command in these negotiations with the European Union.

19. The United States is trying to impose disciplinary measures which "prohibit" investments in property nationalized or expropriated by any country

without compensation and envisages sanctions for those violating its rules. It attempts to apply such retrospective measures to the acts of expropriation carried out at the end of the 1950s. The predefinition of the period from which it plans to consider the nationalization is similar to an Identikit picture of Cuba.

20. United States negotiators are not characterized by having deep knowledge of history, and it would be convenient to jog their memories concerning the changes that took place during those years and thereafter.

21. After the end of the Second World War, several tendencies and movements to decolonize many African, Asian and Caribbean nations became stronger. In Latin America, those forces, together with a sense of nationalism, grew at a fast pace. Some were interested in retrieving and preserving their resources and wealth, and others, like Cuba, tried to build a more righteous system to free itself of the hegemony of its powerful neighbour.

22. All those forces undertook a nationalization process spanning a quarter of a century, from 1950 to 1976. Those years were witness to the Suez Canal intervention; the Chinese, Vietnamese and Cuban acts of expropriation; the Arab and Peruvian nationalization of oil industries during the first half of the 1970s; the nationalization process in Africa in the 1960s and 1970s, in addition to the nationalization that took place in Portugal in the early 1970s. The year 1976, when Venezuela nationalized its oil companies, was the last of the era of major acts of nationalization.

23. The new privatization wave that has swept the world in the last 15 years has included many enterprises which were previously nationalized. It is likely that these new measures which the United States Administration is trying to include in the Agreement will bring about unforeseen complications with other countries and enterprises, a fact which has not been considered by those in Washington who are hatching this plan. These complications will not have anything to do with Cuba.

24. It would not be surprising to find that certain United States multinationals have acquired privatized enterprises which, when they were nationalized without compensation, were formerly owned by, inter alia, British, French, Netherlands, Belgian or Italian companies. Could cases like those come up in Algeria, Indonesia, the Republic of the Congo, Peru, Venezuela and even the Middle East?

25. This would not be the first time that a boomerang effect had surprised United States planners; by trying to act against a given country, they trigger unforeseen situations which then backfire. Such was the case when, from 1959 on, the Central Intelligence Agency encouraged the hijacking of Cuban aircraft. The CIA did not consider that most aircraft were United States-operated, and the practice which they encouraged against Cuba soon spread to their own airlines.

26. Cuba would like to recall that:

(a) The willingness of the Cuban Government to negotiate mutual claims, including the compensation process, has always existed. In December 1996, upon

enactment of Act No. 80 (Cuba's clawback provision against the Helms-Burton Act), the Government states:

"Article 2

"The position of the Government of the Republic of Cuba, as expressed in the nationalization laws promulgated more than 35 years ago, in relation to adequate and just compensation for the expropriated assets of persons and corporations which had United States citizenship or nationality at that time, is hereby reaffirmed";

(b) The United Nations General Assembly, at its forty-seventh session, adopted resolution 47/19, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America on Cuba", according to which all the Members of that Organization should abstain from promulgating and applying laws and measures whose extraterritorial effects affect the sovereignty of other States and the legitimate interests of entities or persons under their jurisdiction, as well as the freedom of trade and navigation. In conformity with that resolution, countries applying measures of this type should take the necessary steps to repeal or invalidate them.

27. Since 1992, the United Nations General Assembly has adopted five resolutions requesting the United States to abstain from applying extraterritorial laws. At its last session, 137 States reiterated that request.

28. It is Cuba's duty to call attention to, and stress, the following:

- All the Cuban nationalization laws contained provisions relating to adequate compensation, both to nationals and foreigners. Thus, under international practice, Cuba negotiated and signed several global compensation agreements, paying all agreed-upon amounts, except the one owed to Spain (currently being implemented because its validity period is 20 years - 1988-2008). The Governments which submitted claims in favour of their citizens were served and, accordingly, some compensation agreements were signed with them (France, Switzerland, the United Kingdom of Great Britain and Northern Ireland, Canada and Spain). Several small claims were also paid off to Italy through an exchange of notes;

- On many occasions, the Cuban Government has suggested that the United States Government should sit down with it to discuss the compensation issue along with other matters; this request has always been rejected;

- Throughout almost four decades, United States Administrations have not been interested in receiving compensation for nationalized property. This is the confusion the United States is trying to spread among those working on the Multilateral Investment Agreement and the OECD member nations. The United States Government is only intent on overthrowing and wiping out the Cuban Revolution;

- All the Titles of the Helms-Burton Act are totally unacceptable, for this Act is an attempt by the United States of America to determine

the political, economic and institutional order of a sovereign, independent State, an objective which is not in line with the Charter of the United Nations and violates the principles of sovereignty and non-interference in the internal affairs of other States;

- The recent action taken by the United States Congress shows that, regardless of the final form adopted by the Foreign Service Reform Act, it will always be at cross-purposes with the understanding reached with the European Union in April. Besides keeping Title IV of the Helms-Burton Act, the notion is to spread it to the rest of the world, which will pose a constant threat to all investors, including those unrelated to Cuba. The lack of answers by the Executive Power clearly shows that there is no intention to honour the obligations entered into with the European partners;

- Ongoing negotiations are not about a trade dispute between the European Union and the United States, but about a political issue affecting the sovereignty of the European Union member States, which could go beyond the scope of action of the Commission;

- Any arrangement or understanding agreed upon which would harm Cuba within the global framework of the Agreement may become a dangerous legal precedent likely to be applied to any country in the future. Cuba has endured almost four decades of blockade and acts of aggression. Other countries could now fall prey to such actions.

APPENDIX

Information on the Cuban nationalization process

1. By seeking to confuse the rest of the world, the United States has unearthed the issue of American property nationalized and not compensated for by Cuba's Revolutionary Government. The Helms-Burton Act is not aimed at securing compensation. Its sole and real purpose is to keep other countries' enterprises from investing in Cuba.

2. From the beginning of the disagreement with Cuba, the United States Government has tried to tout the nationalization issue to defend its acts of aggression. This has only been an excuse, because there was no willingness whatsoever to solve this problem.

3. United States Administrations have been interested, for over four decades, only in overthrowing the Cuban Revolutionary Government. This is tacitly repeated in the designs of the so-called Helms-Burton Act, which expressly states its desire to return Cuba to the status quo on 1 January 1959, when Batista's tyrannical rule was overthrown. It does not refer to August 1960, when United States enterprises were nationalized.

4. The Cuban Government has reiterated throughout all these years its willingness to include the compensation issue on a broad agenda to resolve the dispute through discussion. Therefore, what the United States will try to insert into the Agreement has nothing to do with compensation or ways to implement it.

CUBAN NATIONALIZATION AND COMPENSATION

5. The Cuban nationalization process affected all private ownership of the main means of production on the basis of a political, revolutionary concept, determined by the desire of the people and the Government to build a socialist society.

6. The Charter of Economic Rights and Duties of States, adopted by the United Nations General Assembly in December 1974 (resolution 3281 (XXIX)), recognized the right of each State to freely exercise full, permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources and economic activities. In this respect, it is established that States are entitled:

> "To nationalize, expropriate or transfer ownership of foreign property, in which case appropriate compensation should be paid by the State adopting such measures, taking into account its relevant laws and regulations and all circumstances that the State considers pertinent. In any case where the question of compensation gives rise to controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals, unless it is freely and mutually agreed by all States concerned that other peaceful means be sought on the basis of the sovereign equality of States

and in accordance with the principle of free choice of means" (ibid., art. 2, para. 2 (c)).

7. The Revolutionary Government's legitimate desire, under international law, was to exercise the right of nationalization to attain one of the Cuban Revolution's basic goals: to recover its full sovereignty over the nation's wealth and natural resources.

* * *

Agrarian reform

- When the United States occupation army managed Japan's economy, it undertook an agrarian reform whereby it distributed land and paid compensation to the former landowners through 30-year, 2.5 per cent interest-rate bonds. The agrarian reform supervised by that same Army in the Republic of Korea was even more drastic; Japanese landowners, who owned almost all the land, were expropriated without any compensation.

- On 17 May 1959, Cuba's Agrarian Reform Act was promulgated. This Act applied to both Cuban nationals and foreigners and recognized the constitutional right to compensation of those whose property was expropriated. The so-called bonds of the Republic were issued, yielding an annual interest rate no higher than 4.5 per cent, to be paid off after 20 years, and their owners were granted a 10-year income tax exemption and other benefits.

- Compared with the reforms undertaken in Japan and the Republic of Korea, Cuba's agrarian reform was considerably more lenient to the former proprietors and landowners. However, in the Cuban case, the United States Administration claimed immediate cash compensation for that country's enterprises, which owned 40 per cent of the arable land.

- In its diplomatic note dated 12 June 1959, the United States Government stated:

> "The United States recognizes that, according to international law, a State is entitled to expropriate within its jurisdiction for public purposes in the absence of contract provisions or any other agreement to the contrary; however, this right must be accompanied by the relevant obligation a State may have entered into in the sense that such expropriation shall entail the payment of prompt, adequate and effective compensation."

* * *

8. On 22 February 1960, in a note addressed to the United States Government, the Minister for Foreign Affairs of Cuba stated:

"The Revolutionary Government, in accordance with its intention of resuming, through the diplomatic channel, the negotiations already initiated on the pending issues between Cuba and the United States of America, has decided to appoint a commission for such purposes, which will be able to start its negotiations in Washington on the date agreement upon by both Parties.

"The Revolutionary Government of Cuba would like to make clear, however, that the resumption and further development of such negotiations will not be subject to any unilateral measure adopted by your country's Government which may prejudge the outcome of the aforementioned discussions or may cause damage to the economy of the Cuban people. It seems obvious to add that the adherence of Your Excellency's Government to this point of view will not only contribute to the improvement of relations between the two countries, but will also reaffirm the spirit of fraternal friendship that has tied and still ties our peoples."

9. Washington's response to this note totally rejected the request for the suspension of all acts of aggression:

"The United States Government cannot accept the negotiation terms expressed in Your Excellency's note. Therefore, unilateral measures will be adopted by the United States Government which may affect Cuba's economy and its people, either by the Legislative or the Executive branches."

The United States Administration was not inclined to find a solution to the compensation issues and the differences it had with the Cuban Government. Its only interest was to defeat it.

10. In April 1960, a month after sending the note in reply, two officials of the United States Central Intelligence Agency (CIA) met with President Ydigoras of Guatemala, obtaining his authorization to train a military force which would invade Cuba. In May of that year, the Trax Training Base became operational in that Central American country, and a few days later the New York-based firm Thompson & Cornwall Inc., under a CIA contract, built a modern airport from which nine months later B-26 aircraft would take off to bomb Cuban cities and C-54s, filled with paratroopers, would fly out towards the Bay of Pigs.

11. Act No. 851 of 6 July 1960, issued by the Revolutionary Government of Cuba, authorizing the nationalization of United States property, guaranteed the payment of compensation to the former owners and, practically at the constitutional level, defined the way to create the Compensation Fund. That Act can also be seen as a national security measure. It should be noted that it was promulgated three months after the invasion preparations had started.

12. It is not hard to imagine the frailty of Cuba's national security in the midst of that hostile situation, when the vital points for the functioning of the country's society and economy were operated by United States enterprises, which led the pack of those nationalized on 6 August 1990. Among them were:

- Cuban Electric Company: generated 95 per cent of the country's electricity;

- International Telephone and Telegraph: operated 100 per cent of the telephone system and 80 per cent of the telegraph network;

- Two oil refineries (Standard Oil and Texaco): processed 80 per cent of the oil consumed by the country;

- Eight sugar corporations: controlled one third of the production of sugar, the country's main export product;

- Two nickel factories: produced 100 per cent of the country's second most important export product;

- Three banks: granted 25 per cent of all the country's loans;

- Four tyre factories: covered 100 per cent of the market.

13. From the second half of 1959, most of these enterprises suspended their investment and maintenance plans. They could receive orders from Washington at any time to paralyse Cuba's economy. Such a situation took place at the end of July 1960 when the Cuban Government purchased crude oil from other countries, seeking to diversify the sources and not to depend exclusively on the fuel supplied by United States corporations. The then Secretary of State instructed United States oil companies to refuse to process that oil. The next step would have been to paralyse Cuba by shutting out the supply of fuel.

* * *

Compensation foreseen for expropriated United States property

- The so-called bonds of the Republic were issued to pay compensation to nationalized property. There were experts who would assess the assets in order to produce payment through the amortization of such bonds. This amortization would take place against a fund called "Fund for the payment of compensation for the expropriation of United States assets and national enterprises". The fund would get 25 per cent of the sugar export earnings, which would surpass the three million tons exported to the United States, and the bonds would yield an annual interest rate of 2 per cent, to be redeemed after a period of no less than 30 years.

* * *

14. The United States Government has stated on several occasions that the nationalization laws applied by Cuba to United States property were discriminatory, in that they were specifically aimed against that nation's subjects. Actually, the nationalization laws enacted in those years comprised all the main means of production belonging to Cuban, United States and other foreign nationals. But in the particular case of the United States, its Administration had in those months unleashed an undeclared war against Cuba. Its climax was the Bay of Pigs invasion in April 1961, rated by United States historians and specialists as the biggest aggressive operation schemed by the Central Intelligence Agency aimed at overthrowing a foreign government.

15. The invasion failed, although at a high cost of human lives and material damage for which there can never be compensation.

16. President Kennedy assumed full responsibility for that invasion on Friday, 21 April 1961, when, at a press conference in the State Department, he stated:

> "An old aphorism says that victory has a hundred parents and defeat is an orphan."

Three days later, on Monday, 24 April, the White House released the following communiqué to the press:

> "President Kennedy has stated from the beginning that, as President, he assumes full responsibility. He has stated so on all occasions and states so again now ... The President strongly opposes anyone, within or outside the Administration, who tries to sidetrack that responsibility."

Even though the United States Administration assumed full responsibility for that aggression, the Cuban Government did not let up in its efforts to find ways to settle those differences.

17. Nine months after the Bay of Pigs invasion, at the Eighth Consultative Meeting of Ministers for Foreign Affairs of the American Republics, held in January 1962, the then President of Cuba stated:

> "From the initial deterioration of Cuba-United States relations up to now, Cuba has always been willing to negotiate through the diplomatic channel or by any other appropriate means, the ongoing differences between the United States and Cuba. Furthermore, as our Council of Ministers stated: Cuba would have paid compensation to United States citizens and interests affected by the laws of the Revolution if economic acts of aggression had not stood in the way and if that country's Government had been willing to negotiate on the basis of respect for the will, dignity and sovereignty of our people."

18. In 1974, on the completion of its work, the Cuba Program of the Claims Commission submitted a report to the United States Congress, which stated:

> "The aim of the United States Congress in arranging to submit a certification of the amounts of those losses to the Secretary of State was to make available to the aforementioned official the relevant information that would be useful to him in the future negotiations leading to an agreement on the liquidation of claims with a friendly government in Cuba when diplomatic relations were resumed. So, in effect, this Program can be termed a previous liquidation of all claims ..."

19. The pressures that United States corporations could exert with the aim of reaching an agreement with the Revolutionary Government of Cuba to obtain compensation became an embarrassment to United States Administrations. Since their main objective was, and still is, to destroy the Cuban social system, those Administrations adopted other measures aimed at "taking" corporations "out of the game". From the certificates issued by the Cuba Program of the Claims

Commission, the Treasury Department allowed United States natural and legal persons to deduct from their taxes the total or partial value of the lost property.

20. In that respect, the compensation currently claimed from Cuba would not be from the corporations or natural persons, for they have already received compensation through the deduction from their taxes. Therefore, the only claimant would be the United States Treasury Department if a global compensation agreement were eventually discussed.

21. A second aspect to be considered: 70 per cent of the value of the claims unilaterally accepted by that Congressional Commission was concentrated in 26 large corporations. In the huge ocean of takeovers, mergers and liquidations which characterizes the business world, particularly in the United States, many of these 26 large corporations have disappeared. After almost four decades, a sizable portion of those enterprises which were originally United States-owned have ceased to exist or have ceased to be United States owned, or have been transferred to other activities, or what is left of them is only a package of shares in the safe of another corporation.

22. As is well known, from the beginning of the current decade, an increasing number of representatives of large United States enterprises visited Cuba prior to the adoption of the Helms-Burton Act. They came on fact-finding trips for future business deals in the event the United States blockade was finally lifted. Some of these powerful companies owned shares of nationalized enterprises which had long disappeared and their interests were far removed from the traditional branches in which they operated. They leaned towards new and more dynamic branches with more prospects and more in line with the activities carried out by those visitors' corporations. On the other hand, many of these visitors were concerned that the Treasury Department could claim from them the return of the amounts deducted from taxes (with a compound annual rate of 6 per cent) in the event that they received any direct compensation from Cuba.

23. It is therefore not likely that all United States enterprises will have claims on the Cuban Government. In any case, such claims should come from the United States Treasury Department.

24. The United States has always claimed "prompt, adequate and effective" compensation from Cuba. While the United States incorporated the lump sum agreements into its legal system and adopted the International Claims Act in 1946, its policy towards Cuba has been to impose a blockade and to commit other acts of aggression, not to negotiate.

25. In the midst of the 1992 Presidential election campaign in the United States, the United States Congress passed the Torricelli Amendment, which was aimed at tightening the economic blockade, prohibiting the subsidiaries of United States corporations based in other nations from carrying out trade activities with Cuba, and adopting other measures which unilaterally interfered with the freedom of maritime transportation. They concluded that it was time for the final blow against the Cuban Revolution. That Act was widely criticized by the international community.

26. Forty months later, the same Congress and another President passed the Helms-Burton Act, which was focused on the economic field, and in this case was specifically aimed at paralysing and reversing the foreign investment process in Cuba.

27. Some questions arise in the face of these acts of aggression: What has changed? Why was this new element not included in the Torricelli Amendment and why was it necessary to draft a new Act?

28. The Torricelli Amendment did not in any way relate to foreign investments since they were not important to the Cuban economy at the time. Once more major joint ventures were established, the idea arose of hampering Cuba's development and its integration into the rest of the world. In enacting the Helms-Burton Act, the United States Administration and Congress in fact reaffirmed that the foreign investment process in Cuba was going along well; otherwise, it would be pointless to stir up all the anger and opposition which it generated.

29. In addition to the problems caused by the Helms-Burton Act to Cuba's external finances and economy, the Act endeavours to give orders to non-United States enterprises. Despite all its efforts to reverse the foreign investment process, it should be pointed out that none of the enterprises with investments in Cuba has withdrawn.

30. The Helms-Burton Act was not passed to benefit the former owners who had submitted claims to the Cuba Program of the Claims Commission, since the real claimant should be the United States Treasury Department.

31. The former owners received compensation, either in full or in part, by deducting from their taxes the value of their property. Therefore, since the Treasury Department did not make any claims and the Act encouraged the filing of lawsuits in the United States, the intent is to scare and to paralyse the investment process in Cuba, while at the same time recognizing the right to make claims of Cuban-American citizens, who at the time of the nationalization did not have that right.